

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RAHALL II, NICK OF WEST VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

**EN BLOC AMENDMENT TO THE AMENDMENT IN
THE NATURE OF A SUBSTITUTE TO H.R. 3534
OFFERED BY MR. RAHALL OF WEST VIRGINIA**

Page 150, strike lines 15 and 16 (and redesignate the subsequent subparagraphs accordingly).

Page 37, line 7, strike “public health and”.

Page 37, line 11, strike “public health and”.

Page 39, line 8, strike “human health and”.

Page 47, line 15, strike “public health and”.

Page 66, line 11, strike “and human health”.

Page 87, line 15, strike “and human health”.

Page 180, strike lines 17 through 23 and insert the following:

1 “(V) require the public disclosure
2 of all ingredients, including the chem-
3 ical and common name of such ingre-
4 dients, contained in any such dispers-
5 ant, chemical, or substance; and

Page 181, strike lines 17 through 23 and insert the following:

1 “(II) require the public disclosure
2 of all ingredients, including the chem-
3 ical and common name of such ingre-
4 dients, contained in any such dispers-
5 ant, chemical, or substance; and

Page 169, line 18, insert “**PROCEDURES FOR CLAIMS AGAINST FUND;**” before “**INFORMATION ON CLAIMS**” (and conform the table of contents accordingly).

Page 169, after line 18, insert the following:

6 (a) **PROCEDURES FOR CLAIMS AGAINST FUND.—**
7 Section 1013(e) of the Oil Pollution Act of 1990 (33
8 U.S.C. 2713(e)) is amended by adding at the end the fol-
9 lowing: “In the event of a spill of national significance,
10 the President may exercise the authorities under this sec-
11 tion to ensure that the presentation, filing, processing, set-
12 tlement, and adjudication of claims occurs within the
13 States and local governments affected by such spill to the
14 greatest extent practicable.”.

Page 169, line 19, strike “(a) **IN GENERAL.—**” and
insert “(b) **INFORMATION ON CLAIMS.—**”.

Page 170, line 10, strike “(b)” and insert “(c)”.

Page 170, line 14, strike “(c)” and insert “(d)”.

Add at the end of title VII the following:

1 **SEC. 731. CLARIFICATION OF LIABILITY UNDER OIL POLLU-**
2 **TION ACT OF 1990.**

3 The Oil Pollution Act of 1990 is amended—

4 (1) in section 1013 (33 U.S.C. 2713), by insert-
5 ing after subsection (d) the following:

6 “(e) **LIMITATION ON RELEASE OF LIABILITY.**—No
7 release of liability in connection with compensation re-
8 ceived by a claimant under this Act shall apply to liability
9 for any type of harm unless—

10 “(1) the claimant presented a claim under sub-
11 section (a) with respect to such type of harm; and

12 “(2) the claimant received compensation for
13 such type of harm, from the responsible party or
14 from guarantor of the source designated under sec-
15 tion 1014(a), in connection with such release.”; and

16 (2) in section 1018 (33 U.S.C. 2718), by—

17 (A) striking “or” at the end of paragraph

18 (1);

19 (B) striking the period at the end of para-
20 graph (2) and inserting “; and”; and

21 (C) inserting after paragraph (2) the fol-
22 lowing:

23 “(3) with respect to a claim described in section
24 1013(e), affect, or be construed or interpreted to af-

1 fect or modify in any way, the obligations or liabil-
2 ities of any person under other Federal law.”.

Page 223, after line 13, insert the following (and
conform the table of contents of the bill accordingly):

3 **SEC. 732. SALVAGE ACTIVITIES.**

4 Section 311 of the Federal Water Pollution Control
5 Act (33 U.S.C. 1321) is amended—

6 (1) in subsection (a)(2)(D) by inserting “or sal-
7 vage activities” after “removal”; and

8 (2) in subsection (c)(4)(A) by inserting “or con-
9 ducting salvage activities” after “advice”.

Page 23, line 4, insert “safety training firms,” after
“labor organizations,”.

Page 8, line 7, strike “Biomass or landfill” and in-
sert “Landfill”.

Page 238, after line 19, insert the following:

10 **SEC. 811. GOVERNMENT ACCOUNTABILITY OFFICE EVALUA-**
11 **TION.**

12 (a) **EVALUATION.**—The Comptroller General shall
13 conduct an evaluation of the Department of the Interior
14 to determine—

15 (1) whether the reforms carried out under this
16 Act and the amendments made by this Act address

1 concerns of the Government Accountability Office
2 and the Inspector General expressed before the date
3 of enactment of this Act;

4 (2) whether the increased hiring authority given
5 to the Secretary of the Interior under this Act and
6 the amendments made by this Act has resulted in
7 the Department of the Interior being more effective
8 in addressing its oversight missions; and

9 (3) whether there has been a sufficient reduc-
10 tion in the conflict between mission and interest
11 within the Department of the Interior.

12 (b) REPORT.—Not later than 3 years after the date
13 of enactment of this Act, the Comptroller General shall
14 submit to Congress a report containing the results of the
15 evaluation conducted under subsection (a).

Page 24, after line 12, insert the following:

16 (6) ROLE OF OIL OR GAS OPERATORS AND RE-
17 LATED INDUSTRIES.—The Secretary shall ensure
18 that any cooperative agreement or other collabora-
19 tion with a representative of an oil or gas operator
20 or related industry in relation to a training program
21 established under paragraph (4) or paragraph (5) is
22 limited to consultation regarding curricula and does
23 not extend to the provision of instructional per-
24 sonnel.

Page 238, after line 19, insert the following new section:

1 **SEC. 812. STUDY ON RELIEF WELLS.**

2 Not later than 60 days after the date of enactment
3 of this Act, the Secretary shall enter into an arrangement
4 with the National Academy of Engineering under which
5 the Academy shall, not later than 1 year after such arrangement is entered into, submit to the Secretary and
6 to Congress a report that assesses the economic, safety,
7 and environmental impacts of requiring that 1 or more
8 relief wells be drilled in tandem with the drilling of some
9 or all wells subject to the requirements of this Act and
10 the amendments made by this Act.

Page 223, after line 13, insert the following (and conform the table of contents accordingly):

12 **SEC. 733. REQUIREMENT FOR REDUNDANCY IN RESPONSE**
13 **PLANS.**

14 (a) REQUIREMENT.—Section 311(j)(5)(D) of the
15 Federal Water Pollution Control Act (33 U.S.C.
16 1331(j)(5)(D)) is amended by redesignating clauses (v)
17 and (vi) as clauses (vii) and (viii), and by inserting after
18 clause (iv) the following new clauses:

1 “(v) include redundancies that specify
2 response actions that will be taken if other
3 response actions specified in the plan fail;
4 “(vi) be vetted by impartial experts;”.

5 (b) **CONDITION OF PERMIT.**—The Outer Continental
6 Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by
7 adding at the end the following new section:

8 **“SEC. 32. RESPONSE PLAN REQUIRED FOR PERMIT OR LI-**
9 **CENSE AUTHORIZING DRILLING FOR OIL AND**
10 **GAS.**

11 “The Secretary may not issue any license or permit
12 authorizing drilling for oil and gas on the Outer Conti-
13 nental Shelf unless the applicant for the license or permit
14 has a response plan approved under section 311(j)(5)(D)
15 of the Federal Water Pollution Control Act (33 U.S.C.
16 1331(j)(5)(D)) for the vessel or facility that will be used
17 to conduct such drilling.”.

 Add at the end the following new title:

1 **TITLE _____—STUDY OF ACTIONS**
2 **TO IMPROVE THE ACCURACY**
3 **OF COLLECTION OF ROYAL-**
4 **TIES**

5 **SEC. ____ 1. SHORT TITLE.**

6 This title may be cited as the “Study of Ways to Im-
7 prove the Accuracy of the Collection of Federal Oil, Con-
8 densate, and Natural Gas Royalties Act of 2010”.

9 **SEC. ____ 2. STUDY OF ACTIONS TO IMPROVE THE ACCU-**
10 **RACY OF COLLECTION OF FEDERAL OIL,**
11 **CONDENSATE, AND NATURAL GAS ROYAL-**
12 **TIES.**

13 The Secretary of the Interior shall seek to enter into
14 an arrangement with the National Academy of Engineer-
15 ing under which the Academy, by not later than six
16 months after the date of the enactment of this Act, shall
17 study and report to the Secretary regarding whether the
18 accuracy of collection of royalties on production of oil, con-
19 densate, and natural gas under leases of Federal lands (in-
20 cluding submerged and deep water lands) and Indian
21 lands would be improved by any of the following:

- 22 (1) Requiring the installation of digital meters,
23 calibrated at least monthly to an absolute zero value,
24 for all lands from which natural gas (including con-
25 densate) is produced under such leases.

1 (2) Requiring that—

2 (A) the size of every orifice plate on each
3 natural gas well operated under such leases be
4 inspected at least quarterly by the Secretary;
5 and

6 (B) chipped orifice plates and wrong-sized
7 orifice plates be replaced immediately after
8 those inspections and reported to the Secretary
9 for retroactive volume measurement corrections
10 and royalty payments with interest of 8 percent
11 compounded monthly.

12 (3) Requiring that any plug valves that are in
13 natural gas gathering lines be removed and replaced
14 with ball valves.

15 (4) Requiring that—

16 (A) all meter runs should be opened for in-
17 spection by the Secretary and the producer at
18 all times; and

19 (B) any welding or closing of the meter
20 runs leading to the orifice plates should be pro-
21 hibited unless authorized by the Secretary.

22 (5) Requiring the installation of straightening
23 vanes approximately 10 feet before natural gas en-
24 ters each orifice meter, including each master meter
25 and each sales meter.

1 (6) Requiring that all master meters be in-
2 spected and the results of such inspections be made
3 available to the Secretary and the producers imme-
4 diately.

5 (7) Requiring that—

6 (A) all sampling of natural gas for heating
7 content analysis be performed monthly up-
8 stream of each natural gas meter, including up-
9 stream of each master meter;

10 (B) records of such sampling and heating
11 content analysis be maintained by the pur-
12 chaser and made available to the Secretary and
13 to the producer monthly;

14 (C) probes for such upstream sampling be
15 installed upstream within three feet of each
16 natural gas meter;

17 (D) any oil and natural gas lease for which
18 heat content analysis is falsified shall be subject
19 to cancellation;

20 (E) natural gas sampling probes be lo-
21 cated—

22 (i) upstream of the natural gas meter
23 at all times;

24 (ii) within a few feet of the natural
25 gas meter; and

1 (iii) after the natural gas goes
2 through a Welker or Y-Z vanishing cham-
3 ber; and

4 (F) temperature probes and testing probes
5 be located between the natural gas sampling
6 probe and the orifice of the natural gas meter.

7 (8) Prohibiting the dilution of natural gas with
8 inert nitrogen or inert carbon dioxide gas for royalty
9 determination, sale, or resale at any point.

10 (9) Requiring that both the measurement of the
11 volume of natural gas and the heating content anal-
12 yses be reported only on the basis of 14.73 PSI and
13 60 degrees Fahrenheit, regardless of the elevation
14 above sea level of such volume measurement and
15 heating content analysis, for both purchases and
16 sales of natural gas.

17 (10) Prohibiting the construction of bypass
18 pipes that go around the natural gas meter, and im-
19 posing criminal penalties for any such construction
20 or subsequent removal including, but not limited to,
21 automatic cancellation of the lease.

22 (11) Requiring that all natural gas sold to con-
23 sumers have a minimum BTU content of 960 at an
24 atmospheric pressure of 14.73 PSI and be at a tem-

1 perature of 60 degrees Fahrenheit, as required by
2 the State of Wyoming Public Utilities Commission.

3 (12) Requiring that all natural gas sold in the
4 USA will be on a MMBTU basis with the BTU con-
5 tent adjusted for elevation above sea level in higher
6 altitudes. Thus all natural gas meters must correct
7 for BTU content in higher elevations (altitudes).

8 (13) Issuance by the Secretary of rules for the
9 measurement at the wellhead of the standard volume
10 of natural gas produced, based on independent in-
11 dustry standards such as those suggested by the
12 American Society of Testing Materials (ASTM).

13 (14) Requiring use of the fundamental orifice
14 meter mass flow equation, as revised in 1990, for
15 calculating the standard volume of natural gas pro-
16 duced.

17 (15) Requiring the use of F_{pv} in standard vol-
18 ume measurement computations as described in the
19 1992 American Gas Association Report No. 8 enti-
20 tled Compressibility Factor of Natural Gas and
21 Other Related Hydrocarbon Gases.

22 (16) Requiring that gathering lines must be
23 constructed so as to have as few angles and turns
24 as possible, with a maximum of three angles, before
25 they connect with the natural gas meter.

1 (17) Requiring that for purposes of reporting
2 the royalty value of natural gas, condensate, oil, and
3 associated natural gases, such royalty value must be
4 based upon the natural gas' condensate's, oil's, and
5 associated natural gases' arm's length, independent
6 market value, as reported in independent, respected
7 market reports such as Platts or Bloomborgs, and
8 not based upon industry controlled posted prices,
9 such as Koch's.

10 (18) Requiring that royalties be paid on all the
11 condensate recovered through purging gathering
12 lines and pipelines with a cone-shaped device to push
13 out condensate (popularly referred to as a pig) and
14 on condensate recovered from separators, dehydra-
15 tors, and processing plants.

16 (19) Requiring that all royalty deductions for
17 dehydration, treating, natural gas gathering, com-
18 pression, transportation, marketing, removal of im-
19 purities such as carbon dioxide (CO₂), nitrogen (N₂),
20 hydrogen sulphide (H₂S), mercaptain (HS), helium
21 (He), and other similar charges on natural gas, con-
22 densate, and oil produced under such leases that are
23 now in existence be eliminated.

24 (20) Requiring that at all times—

1 (A) the quantity, quality, and value ob-
2 tained for natural gas liquids (condensate) be
3 reported to the Secretary; and

4 (B) such reported value be based on fair
5 independent arm's length market value.

6 (21) Issuance by the Secretary of regulations
7 that prohibit venting or flaring (or both) of natural
8 gas in cases for which technology exists to reason-
9 ably prevent it, strict enforcement of such prohibi-
10 tions, and cancellation of leases for violations.

11 (22) Requiring lessees to pay full royalties on
12 any natural gas that is vented, flared, or otherwise
13 avoidably lost.

14 (23)(A) Requiring payment of royalties on car-
15 bon dioxide at the wellhead used for tertiary oil re-
16 covery from depleted oil fields on the basis of 5 per-
17 cent of the West Texas Intermediate crude oil fair
18 market price to be used for one MCF (1,000 cubic
19 feet) of carbon dioxide gas.

20 (B) Requiring that—

21 (i) carbon dioxide used for edible purposes
22 should be subjected to a royalty per thousand
23 cubic feet (MCF) on the basis of the sales price
24 at the downstream delivery point without de-

1 ducting for removal of impurities, processing,
2 transportation, and marketing costs;

3 (ii) such price to apply with respect to gas-
4 eous forms, liquid forms, and solid (dry ice)
5 forms of carbon dioxide converted to equivalent
6 MCF; and

7 (iii) such royalty to apply with respect to
8 both a direct producer of carbon dioxide and
9 purchases of carbon dioxide from another per-
10 son that is either affiliated or not affiliated with
11 the purchaser.

12 (24) Requiring that—

13 (A) royalties be paid on the fair market
14 value of nitrogen extracted from such leases
15 that is used industrially for well stimulation,
16 helium recovery, or other uses; and

17 (B) royalties be paid on the fair market
18 value of ultimately processed helium recovered
19 from such leases.

20 (25) Allowing only 5 percent of the value of the
21 elemental sulfur recovered during processing of hy-
22 drogen sulfide gas from such leases to be deducted
23 for processing costs in determining royalty pay-
24 ments.

1 (26) Requiring that all heating content analysis
2 of natural gas be conducted to a minimum level of
3 C₁₅.

4 (27) Eliminating artificial conversion from dry
5 BTU to wet BTU, and requiring that natural gas be
6 analyzed and royalties paid for at all times on the
7 basis of dry BTU only.

8 (28) Requiring that natural gas sampling be
9 performed at all times with a floating piston cylinder
10 container at the same pressure intake as the pres-
11 sure of the natural gas gathering line.

12 (29) Requiring use of natural gas filters with a
13 minimum of 10 microns, and preferably 15 microns,
14 both in the intake to natural gas sampling con-
15 tainers and in the exit from the natural gas sam-
16 pling containers into the chromatograph.

17 (30) Mandate the use of a Quad Unit for both
18 portable and stationary chromatographs in order to
19 correct for the presence of nitrogen and oxygen, if
20 any, in certain natural gas streams.

21 (31) Require the calibration of all chro-
22 matograph equipment every three months and the
23 use of only American Gas Association-approved
24 standard comparison containers for such calibration.

1 (32) Requiring payment of royalties on any
2 such natural gas stored on Federal or Indian lands
3 on the basis of corresponding storage charges for the
4 use of Federal or Indian lands, respectively, for such
5 storage service.

6 (33) Imposing penalties for the intentional non-
7 payment of royalties for natural gas liquids recov-
8 ered—

9 (A) from purging of natural gas gathering
10 lines and natural gas pipelines; or

11 (B) from field separators, dehydrators, and
12 processing plants,
13 including cancellation of oil and natural gas leases
14 and criminal penalties.

15 (34) Requiring that the separator, dehydrator,
16 and natural gas meter be located within 100 feet of
17 each natural gas wellhead.

18 (35) Requiring that BTU heating content anal-
19 ysis be performed when the natural gas is at a tem-
20 perature of 140 to 150 degrees Fahrenheit at all
21 times, as required by the American Gas Association
22 (AGA) regulations.

23 (36) Requiring that heating content analysis
24 and volume measurements are identical at the sales
25 point to what they are at the purchase point, after

1 allowing for a small volume for leakage in old pipes,
2 but with no allowance for heating content discrep-
3 ancy.

4 (37) Verification by the Secretary that the spe-
5 cific gravity of natural gas produced under such
6 leases, as measured at the meter run, corresponds to
7 the heating content analysis data for such natural
8 gas, in accordance with the Natural Gas Processors
9 Association Publication 2145-71(1), entitled "Phys-
10 ical Constants Of Paraffin Hydrocarbons And Other
11 Components Of Natural Gas", and reporting of all
12 discrepancies immediately.

13 (38) Prohibiting all deductions on royalty pay-
14 ments for marketing of natural gas, condensate, and
15 oil by an affiliate or agent.

16 (39) Requiring that all standards of the Amer-
17 ican Petroleum Institute, the American Gas Associa-
18 tion, the Gas Processors Association, and the Amer-
19 ican Society of Testing Materials, Minerals Manage-
20 ment Service Order No. 5, and all other Minerals
21 Management Service orders be faithfully observed
22 and applied, and willful misconduct of such stand-
23 ards and orders be subject to oil and gas lease can-
24 cellation.

1 **SEC. ____ 3. DEFINITIONS.**

2 In this title:

3 (1) **COVERED LANDS.**—The term “covered
4 lands” means—

5 (A) all Federal onshore lands and offshore
6 lands that are under the administrative jurisdic-
7 tion of the Department of the Interior for pur-
8 poses of oil and gas leasing; and

9 (B) Indian onshore lands.

10 (2) **SECRETARY.**—The term “Secretary” means
11 the Secretary of the Interior.

 At the end of subtitle A of title II, add the following
new section:

12 **SEC. 224. REPORT ON ENVIRONMENTAL BASELINE STUD-**
13 **IES.**

14 The Secretary of the Interior shall report to Congress
15 within 6 months after the date of enactment of this Act
16 on the costs of baseline environmental studies to gather,
17 analyze, and characterize resource data necessary to im-
18 plement the Outer Continental Shelf Lands Act (43
19 U.S.C. 1331 et seq.). The Secretary shall include in the
20 report proposals of fees or other ways to recoup such costs
21 from persons engaging or seeking to engage in activities
22 on the Outer Continental Shelf to which that Act applies.

At the end of title III add the following new section:

1 **SEC. 321. APPLICATION OF ROYALTY TO OIL THAT IS**
2 **SAVED, REMOVED, SOLD, OR DISCHARGED**
3 **UNDER OFFSHORE OIL AND GAS LEASES.**

4 Section 8(a) of the Outer Continental Shelf Lands
5 Act (43 U.S.C. 1337(a)) is further amended by adding
6 at the end the following new paragraph:

7 “(10)(A) Any royalty under a lease under this section
8 shall apply to all oil that is saved, removed, sold, or dis-
9 charged, without regard to whether any of the oil is un-
10 avoidably lost or used on, or for the benefit of, the lease.

11 “(B) In this paragraph the term ‘discharged’ means
12 any emission (other than natural seepage), intentional or
13 unintentional, and includes, but is not limited to, spilling,
14 leaking, pumping, pouring, emitting, emptying, or dump-
15 ing.”.

Page 82, line 24, before “The Secretary” insert the
following:

16 (1) IN GENERAL.—

Page 83, line 4, strike “(1)” and insert “(A)”.

Page 83, line 7, strike “(2)” and insert “(B)”.

Page 83, line 11, strike “(3)” and insert “(C)”.

Page 83, line 15, strike “(4)” and insert “(D)”.

Page 83, line 19, strike “(5)” and insert “(E)”.

Page 83, line 20, strike “(6)” and insert “(F)”.

Page 83, after line 22, insert the following:

1 “(2) CIVIL PENALTY.—Any chief executive offi-
2 cer who makes a false certification under paragraph
3 (1) shall be liable for a civil penalty under section
4 24.

Page 129, after line 19, insert the following:

5 (4) CITIZEN ADVISORY COUNCIL.—
6 (A) IN GENERAL.—The Gulf Coast Res-
7 toration Task Force shall create a Citizen Advi-
8 sory Council made up of individuals who—
9 (i) are local residents of the Gulf of
10 Mexico region;
11 (ii) are stakeholders who are not from
12 the oil and gas industry or scientific com-
13 munity;
14 (iii) include business owners, home-
15 owners, and local decisionmakers; and
16 (iv) are a balanced representation geo-
17 graphically and in diversity among the in-
18 terests of its members.

1 (B) FUNCTION.—The Council shall provide
2 recommendations to the Task Force regarding
3 its work.

At the end of subtitle A of title II add the following
new section:

4 **SEC. 225. CUMULATIVE IMPACTS ON MARINE MAMMAL SPE-**
5 **CIES AND STOCKS AND SUBSISTENCE USE.**

6 Section 20 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1346) is further amended by adding at the
8 end the following:

9 “(h) CUMULATIVE IMPACTS ON MARINE MAMMAL
10 SPECIES AND STOCKS AND SUBSISTENCE USE.—In deter-
11 mining, pursuant to subparagraphs (A)(i) and (D)(i) of
12 section 101(a)(5) of the Marine Mammal Protection Act
13 of 1972 (16 U.S.C.1371(a)(5)), whether takings from
14 specified activities administered under this title will have
15 a negligible impact on a marine mammal species or stock,
16 and not have an unmitigable adverse impact on the avail-
17 ability of such species or stock for taking for subsistence
18 uses, the Secretary of Commerce or Interior shall incor-
19 porate any takings of such species or stock from any other
20 reasonably foreseeable activities administered under this
21 Act.”

Page 145, line 3, insert “, except for the assessment for the Great Lakes Coordination Region, for which the Regional Coordination Council for such Coordination Region shall only identify the Great Lakes Coordination Region’s renewable energy resources, including current and potential renewable energy resources” after “potential energy resources”.

Page 147, line 23, insert “, except for the Strategic Plan for the Great Lakes Coordination Region which shall identify only areas with potential for siting and developing renewable energy resources in the Great Lakes Coordination Region” after “Strategic Plan”.

